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DEPARTMENT OF COMMERCE
International Trade Administration
[A-570-898]

Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (PRC). The period of review (POR) for this administrative review is June 1, 2009, through May 31, 2010. We invited interested parties to comment on our Preliminary Results.¹ Based on our analysis of the comments received, we have made changes to the margin calculations. Therefore, the final results differ from the preliminary results. The final dumping margin for this review is listed in the "Final Results of Review" section below.

EFFECTIVE DATE: Insert date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Emily Halle, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0176.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 2011, the Department published its Preliminary Results. On August 1, 2011, Clearon Corporation and Occidental Chemical Corporation (Petitioners) timely filed surrogate

¹ See Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 76 FR 40689 (July 11, 2011) (Preliminary Results).

value information.² The Department notified parties that it had clarified its separate rate methodology for non-reviewed companies on August 30, 2011.³ On September 9, 2011, Hebei Jiheng Chemical Company, Ltd. (Jiheng), Juancheng Kangtai Chemical Co., Ltd. (Kangtai), Zhucheng Taisheng Chemical Co., Ltd. (Zhucheng), and Petitioners filed case briefs. Kangtai also filed new factual information on September 9, 2011,⁴ which the Department rejected as untimely on September 16, 2011.⁵ On September 15, 2011, rebuttal case brief deadlines were extended to September 19, 2011. Arch Chemicals (China) Co., Ltd. (Arch China), Zhucheng, Kangtai and Petitioners timely filed rebuttal briefs on September 19, 2011. On August 10, 2011, and September 19, 2011, the Department received requests for a public hearing from Zhucheng and Kangtai, respectively.⁶ The Department conducted a public hearing on October 14, 2011.⁷

Scope of the Order

The products covered by the order are chlorinated isocyanurates (chlorinated isos), which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dihydrate) ($\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isos are available in powder,

²See Letter from Petitioners regarding “Chlorinated Isocyanurates from The People’s Republic of China: Fifth Administrative Review: Information Regarding Surrogate Values for Factors of Production,” dated August 1, 2011 (Petitioners Surrogate Value Letter).

³See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, regarding “Rate for Non-Selected Companies,” dated August 30, 2011 (Separate Rate Memorandum).

⁴See Letter from Juancheng Kangtai Chemical Co., Ltd. regarding “Certain Chlorinated Isocyanurates from the People’s Republic of China Rebuttal of New Facts by Juancheng Kangtai,” dated September 9, 2011.

⁵See Letter to Juancheng Kangtai Chemical Co., Ltd. regarding “2009-2010 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People’s Republic of China,” dated September 16, 2011.

⁶See Letter from Zhucheng Taisheng Chemical Co., Ltd., regarding “Request for Hearing: Chlorinated Isocyanurates from the People’s Republic of China, June 1, 2009-May 31, 2010 Period of Review,” dated August 10, 2011. See also Letter from Juancheng Kangtai Chemical Co., Ltd., regarding “Certain Chlorinated Isocyanurates from the People’s Republic of China Request for Hearing,” dated September 19, 2011.

⁷See Public Hearing in the matter “Chlorinated Isocyanurates from the People’s Republic of China,” dated October 14, 2011.

granular, and tableted forms. The order covers all chlorinated isos.

Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, entitled “Issues and Decision Memorandum for the Final Results of the Administrative Review of Chlorinated Isocyanurates from the People's Republic of China,” dated concurrently with this notice (Decision Memorandum), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Decision Memorandum is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in the public memorandum, which is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), main Commerce Building, Room 7046, and is also accessible on the Web at

<http://ia.ita.doc.gov/frn>. The paper copy and electronic versions of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

The Department has made several programming adjustments.⁸ First, we corrected the constructed entered value amount to include materials for which Jiheng was reimbursed by the U.S. customer and materials provided free of charge. Next, by applying the inland freight surrogate value, measured in U.S. dollars per metric ton per kilometer, to certain packing and packaging materials that were reported in kilograms, we overstated the values for these materials. We adjusted the inland freight value by dividing it by 1000 and applying this adjusted value to all packing and packaging materials that were reported in kilograms. Finally, in the Petitioners Surrogate Value Letter, Petitioners provided two additional financial statements to value chlorine and hydrogen factors of production along with the financial statements used in the Preliminary Results.⁹ No parties objected to the use of the chlorine and hydrogen values in these additional financial statements. After reviewing these financial statements, the Department adjusted the surrogate values for chlorine and hydrogen to include the sales values of chlorine and hydrogen reported in these financial statements. See Decision Memorandum.

Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single

⁸See Memorandum to Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, regarding "Analysis for the Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Hebei Jiheng Chemical Company Ltd.," dated November 8, 2011 (Analysis Memorandum) for a detailed discussion of these changes.

⁹See Preliminary Results, 76 FR at 40695.

rate unless an exporter can demonstrate that it is sufficiently independent so as to be eligible for a separate rate.¹⁰ In the Preliminary Results, the Department found that Arch China, Kangtai, and Zhucheng demonstrated their eligibility for separate rate status.¹¹

For these final results, we continue to find that the evidence placed on the record of this review by Arch China, Kangtai and Zhucheng demonstrates both a de jure and de facto absence of government control, with respect to their exports of the merchandise under review, and, thus, these companies are eligible for separate rate status.

Margin for the Separate Rate Companies

The rate for the individually examined respondent, Jiheng, continues to be de minimis and, accordingly, the Department must determine a reasonable alternative method for assigning a rate to Arch China, Kangtai and Zhucheng. In the Separate Rate Memorandum, the Department announced that the method used to determine the rate for the non-selected companies in the Preliminary Results was not consistent with current practice, as recently clarified.¹² In previous cases, the Department has determined that a “reasonable method” to use when, as here, the rates of the mandatory respondents are zero and de minimis, is to apply to those companies not selected for individual review (but eligible for a separate rate in NME cases) the average of the most recently determined rates that are not zero, de minimis or based entirely on facts available (which may be from a prior administrative review or a new shipper review).¹³ However, if any such non-selected company had its own calculated rate that is contemporaneous with or more

¹⁰ See Final Determination of Sales at Less Than Fair Value: Sparklers From the People’s Republic of China, 56 FR 20588 (May 6, 1991), as further developed in Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People’s Republic of China, 59 FR 22585 (May 2, 1994).

¹¹ See Preliminary Results, 76 FR at 40693.

¹² See Administrative Review of Certain Frozen Warmwater Shrimp From the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 76 FR 51940, 51942 (August 19, 2011).

¹³ See id.; see also Amanda Foods (Vietnam) Ltd. v. United States, Slip Op. 2011-39, 2011 Ct. Intl. Trade LEXIS 37 at 12 (CIT April 14, 2011).

recent than such prior determined rates, the Department has applied such an individual rate to the non-selected company in the review in question, including when that rate is zero or de minimis.¹⁴

The most recently published rate on the record of these proceedings for other companies that is not zero, de minimis or based entirely on facts available is the 2.66 percent rate calculated for Jiheng in the 2008-2009 administrative review.¹⁵ Therefore, the Department is now assigning Arch China, Kangtai, and Zhucheng a weighted-average margin of 2.66 percent as their separate rate.¹⁶

Final Results of Review

We determine that the following weighted-average dumping margins exist for the period June 1, 2009, through May 31, 2010.

<i>Exporter</i>	<i>Weighted-Average Margin Percentage</i>
Hebei Jiheng Chemical Co., Ltd.	0.03 (<u>de minimis</u>)
Juancheng Kangtai Chemical Co., Ltd.	2.66
Arch Chemicals (China) Co., Ltd.	2.66
Zhucheng Taisheng Chemical Co., Ltd.	2.66

¹⁴Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results of the New Shipper Review and Fourth Antidumping Duty Administrative Review and Partial Rescission of the Fourth Administrative Review, 73 FR 52015 (September 8, 2008) (changed in the final results as the final calculated rate for the mandatory respondent was above de minimis, which remained unchanged in the amended final results). See also Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 74 FR 47191, 47195 (September 15, 2009) and accompanying Issues and Decision Memorandum.

¹⁵See Chlorinated Isocyanurates From the People's Republic of China: Final Results of 2008-2009 Antidumping Administrative Review, 75 FR 70212, 70213 (November 17, 2010).

¹⁶See Decision Memorandum at Comments 2, 3 and 4 (which further explain the use of this rate as the separate rate).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (i.e., per metric ton) amount (for Jiheng) or ad valorem rate (for separate rate respondents) on each entry of the subject merchandise during the POR. The Department intends to issue assessment instructions directly to CBP 15 days after the publication of this notice.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporter's listed above, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or de minimis, i.e., less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 285.63 percent;¹⁷ and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that

¹⁷ For an explanation on the derivation of the PRC-wide rate, see Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China, 70 FR 24502, 24505 (May 10, 2005).

supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

In accordance with 19 CFR 351.224(b), we will disclose the calculations performed for these final results to parties in this proceeding within five days of the date of publication of this notice.

We are issuing and publishing these final results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

__November 8, 2011_____
Date

Appendix

List of Comments and Issues in the Issues and Decision Memorandum

Comment 1:	Respondent Selection
Comment 2:	Kangtai's New Shipper Review Rate is not Representative of its Current Behavior
Comment 3:	Jiheng's Prior Administrative Review Rate is not Representative of the Current Behavior of Arch China and Zhucheng
Comment 4:	Exclusion of <u>De Minimis</u> Rates from Consideration as Separate Rates for Non-Reviewed Companies
Comment 5:	Use of Multiple Separate Rates
Comment 6:	Calculation of Entered Value
Comment 7:	Calculation of Inland Freight
Comment 8:	Per-Unit Assessment Rate in Draft Liquidation Instructions
Comment 9:	Zeroing Methodology in Reviews
Comment 10:	Kangtai's New Factual Submission Should Not Have Been Rejected

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